

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-219694

**DATE:** December 5, 1985

**MATTER OF:** San Vali Painting - Davis-Bacon Act  
Debarment

**DIGEST:**

The Department of Labor recommended debarment of a contractor under the Davis-Bacon Act because the contractor failed to pay the minimum wages required by the Act and had falsified certified payroll records. Based on our independent review of the record in the case, we find that there was a substantial violation of the Act in that the underpayment of employees and falsification of records was intentional and we conclude that the contractor disregarded its obligations under the Act. Therefore, the contractor will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), has submitted a recommendation that the names of a business firm and its owner be placed on the ineligible bidders list for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982). Those names are: San Vali Painting and Sava Strajnic, individually and as owner. For reasons that follow, we concur in that recommendation.

The record shows that Sava Strajnic, d/b/a San Vali Painting, performed work as a prime contractor under Contract Nos. V538C-222 and V538C-218 with the Veterans Administration Medical Center, Chillicothe, Ohio, doing exterior painting. These contracts were subject to the Davis-Bacon Act requirements that certain minimum wages be paid. Further, pursuant to 29 C.F.R. § 5.5(a) (1984) the contractor was to submit payroll records certified as to correctness and completeness.

As a result of an investigation, the DOL found that employees were not paid the minimum wages required by the Davis-Bacon Act, and that the certified payrolls, which were signed by Mr. Strajnic, were falsified. By certified letter dated February 15, 1985, sent to the firm's last known address, San Vali Painting and Sava Strajnic, as

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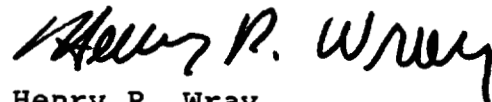
owner, were given notice in detail of the violations with which they were charged and that debarment was possible. Further, Mr. Strajnic was given an opportunity for a hearing on the matter before an administrative law judge in accordance with 29 C.F.R. §§ 5.11(b) and 5.12(b) (1984). The DOL reported that the letter to Mr. Strajnic was returned by the U.S. Postal Service with the notation "unclaimed." The DOL reported further that their local representative subsequently attempted to hand-deliver the letter, but Mr. Strajnic had moved during the interim and had left no forwarding address. We note that the record also shows that during the investigation the DOL compliance officer met with Mr. Strajnic, and discussed the possibility of debarment.

After reexamining the record, DOL found that Sava Strajnic disregarded his firm's obligations to employees under the Davis-Bacon Act, without any factors militating against debarment. Therefore, DOL recommended that the names of the firm and its owner be placed on the ineligible bidders list for violations of that Act. The record also states that there are no funds available for the payment of back wages.

The Davis-Bacon Act provides that the Comptroller General is authorized to debar persons or firms whom he has found to have disregarded their obligations to employees under the Act. 40 U.S.C. § 276a-2. In Circular Letter B-3368, March 19, 1957, we distinguished between "technical violations" which result from inadvertence or legitimate disagreement concerning employee classification for minimum wage purposes, and "substantial violations" which were intentional as demonstrated by bad faith or gross carelessness in observing minimum wage obligations to employees under the Act. Falsification of payroll records is a basis for debarment under the Act. See, e.g., Bryant Paint Contracting, Inc., B-217337, May 23, 1985.

Based on our independent review of the record in this matter, we find that there was a substantial violation of the Act in that the underpayment of employees was intentional as demonstrated by Sava Strajnic's bad faith in the falsification of certified payroll records. Therefore, we conclude that Mr. Strajnic as owner of San Vali Painting disregarded his obligations under the Davis-Bacon Act.

Accordingly, the names San Vali Painting and Sava Strajnic, individually and as owner, will be included on the list of ineligible bidders to be distributed to all departments of the Federal government. Pursuant to statutory direction (40 U.S.C. § 276a-2), no contract shall be awarded to San Vali Painting or Sava Strajnic, or to any firm, corporation, partnership or association in which he has an interest until 3 years have elapsed from the date of publication of such list.

A handwritten signature in black ink, appearing to read "Henry R. Wray". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Henry R. Wray  
Associate General Counsel